



W.P(MD)No.14362 of 2012

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.07.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.14362 of 2012

and

M.P(MD)No.1 of 2012

K.Sivasankaran

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome,
Chennai-28.

2.The District Registrar,
Kumbakonam.

3.Seetharaman

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the second respondent in Order No.2946/Aa/2011 dated 26.03.12. and quash the same.

For Petitioner	: Mr.P.Thiagarajan
For R1 & R2	: Mr.K.S.Selvaganesan Additional Government Pleader
For R3	: Mr.S.Sivathilakar



W.P(MD)No.14362 of 2012

ORDER

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The present writ petition has been filed challenging an order passed by the second respondent herein, in which the sale deed obtained by the writ petitioner was declared as null and void.

2. According to the learned counsel for the petitioner, he has purchased the property from one Thirunavukarasu by a sale deed, dated 20.09.2010. The said document was registered through a special power of attorney said to have been executed by the said Thirunavukarasu in favour of Jayaraman. After verifying the power deed and the signature found in the sale deed, the sale deed came to be registered. However, the learned counsel for the third respondent had contended that the said Thirunavukarasu had passed away on 22.11.1989 itself. Hence, the contention of the writ petitioner that he purchased the property from the said Thirunavukarasu in the year 2010 is nothing, but forgery. He has further contended that the said Thirunavukarasu could not have executed a power deed in favour of one Jayaraman and on the basis of this, the petitioner could not have purchased the property at all. According to the



W.P(MD)No.14362 of 2012

learned counsel for the respondent, Sections 81 and 82 of the Registration Act are attracted in the present case.

3. Based upon the objections raised by the third respondent herein, the second respondent had issued a summon to the said Thirunavukarasu. However, he has not appeared before the second respondent herein. The second respondent further found that the signature of the Thirunavukarasu found in the special power of attorney does not correlate with the signature found in the sale deed in document No.591 of 2011. On the said reasons, the impugned order came to be passed declaring the sale deed as null and void.

4. I have carefully considered the submissions made on either side.

5. Admittedly, the second respondent has exercised his powers conferred upon him under Circular No 67, dated 03.11.2011. As of now, the said circular is not in force. However, the petitioner is said to have purchased the property in September 2010. The impugned proceedings have been initiated in the year 2011. The second respondent has chosen



W.P(MD)No.14362 of 2012

to issue the notice only to the vendor, namely Thirunavukarasu, but not to the purchaser, who is the writ petitioner herein. Though the said Thirunavukarasu has not appeared before the second respondent, the writ petitioner has appeared before the second respondent and sought for copy of the complaint and other documents, which were not furnished to him and thereafter the impugned order came to be passed. A perusal of the impugned order indicates that the second respondent has passed the orders without providing adequate opportunity to the writ petitioner. That apart, the second respondent will have only powers to cancel the registration and not to declare a document as null and void.

6. Hence, in view of the abovesaid facts, the following order is passed:

(i) The impugned order is set aside. The matter is remitted back to the file of the second respondent herein for fresh consideration on merits and in accordance with law, after affording due opportunity to the writ petitioner and the third respondent herein.



W.P(MD)No.14362 of 2012

WEB COPY

(ii) If the second respondent finds that the case falls within the scope of Section 81 or 82 of the Registration Act, he is at liberty to initiate proceedings under Section 83 of the said Act.

(iii) During the pendency of the proceedings before the second respondent herein, the petitioner as well as the third respondent shall not create any encumbrance over the property in dispute.

7. With the abovesaid directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

21.07.2022

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Index : Yes / No
Internet : Yes / No
To

1.The Inspector General of Registration,
Santhome,
Chennai-28.

2.The District Registrar,
Kumbakonam.

5/6



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W.P(MD)No.14362 of 2012

R.VIJAYAKUMAR ,J.

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Order made in
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